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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/710,749 | 07/30/2004 | Ryan McGee | 81101679 / FMC 1764 PUS | 4748 |
| 28395 | 7590 | 03/14/2006 | EXAMINER | |
| BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238 | | | CASTRO, ARNOLD | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3747 | |

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term "distance" in claims 12-16 is used by the claim to mean "difference or delta", while the accepted meaning is "a length " The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5-11, 13-22 are rejected under 35 U.S.C. 102(b) as being anticipate by Ochiai et al. (US 2003/0088343 A1).

6. Ochiai et al. discloses a method for controlling engine start in a vehicle, the vehicle including an electric machine (12) operable to provide a starting torque to the engine (11), and an energy storage device (16) capable of providing energy to operate the electric machine, the method comprising: determining a discharge power limit for the energy storage device (S12); determining an output power of the energy storage device (S12); determining an engine starting power level (S13) for the energy storage device, the engine starting power level being related to the discharge power limit for the energy storage device and an amount of output power of the energy storage device necessary to operate the electric machine to provide the starting torque to the engine; and starting the engine when the output power of the energy storage device is at or above the engine starting power level. The vehicle further including at least one drive wheel (14), the method further comprising: operating the electric machine to provide torque to the at least one vehicle drive wheel, and wherein starting the engine includes operating the electric machine to provide torque to the engine, and wherein the engine starting power level provides an indicator of when starting the engine will reduce the torque provided by the electric machine to the at least one vehicle drive wheel. Determining the engine starting power level includes defining a power level at a variable offset from the discharge power limit for the energy storage device, the variable offset being a function of a plurality of vehicle operating conditions (Ne Tb).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3747

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 3, 4, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ochiai et al. (US 2003/0088343 A1).

10. Ochiai et al. discloses as in claim 5 above determining the engine starting power level includes defining a power level at a variable offset from the discharge power limit for the energy storage device, the variable offset being a function of a plurality of vehicle operating conditions.

It would be obvious to fix the variable offset as claimed in claims 3, 4, and 12.

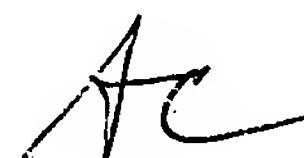
Motivation would be to reduce Ecu computations allowing for a cheaper less powerful ECU.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnold Castro whose telephone number is (571) 272-4839. The examiner can normally be reached on Mon, Tues, Wed, Thurs 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yuen Henry can be reached on (571)-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnold Castro
Examiner
Art Unit 3747

AC



Carl S. Miller
Primary Examiner